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Report on the Danbury Neighbourhood Plan 2023 – 2036

An Examination undertaken for Chelmsford City Council with the support of Danbury Parish Council on the March 2024 submission version of the Plan.

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Date of Report: 26 September 2024

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Main Findings - Executive Summary

From my examination of the Danbury Neighbourhood Plan (the Plan) and its supporting documentation, including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Danbury Parish Council;
- the Plan has been prepared for an area properly designated – the Danbury Neighbourhood Area (Figure 1 on Page 8 of the Plan);
- the Plan specifies the period to which it is to take effect – 2023 - 2036; and
- the policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Danbury Neighbourhood Plan 2023 - 2036

- 1.1 Danbury is a large village and parish on the eastern boundary of the administrative area of Chelmsford City Council in the county of Essex. The parish is mid-way between Chelmsford, some 8 km to the west, and Maldon, to the east. Chelmsford and Maldon are linked by the busy A414 which bisects the parish. There are six main residential areas within a setting of wooded hills. The surrounding countryside is mainly arable with some sheep farming.
- 1.2 Application for designation as a neighbourhood area was made in early 2016 with approval following in June of that year. Since then, preparation has been carried out in several distinct phases including initial consultation, the collection of evidence and the production of and consultation on emerging policy ideas. The resultant plan has an overarching vision, seven broad objectives and 17 detailed policies. In addition, there are five site specific policies, one for each of the sites allocated for housing under the Plan.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Danbury Neighbourhood Plan by Chelmsford City Council, with the agreement of Danbury Parish Council.
- 1.4 I am a chartered town planner and former government Planning Inspector with over forty years' experience. I have worked in both the public and the private sectors. I am an independent examiner and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). The examiner must consider:
- Whether the Plan meets the Basic Conditions.
 - Whether the Plan complies with provisions under Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development'; and
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
 - Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) (“the 2012 Regulations”).
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

- 1.8 The “Basic Conditions” are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan for the area;
 - be compatible with and not breach European Union (EU) obligations (under retained EU law)¹; and
 - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.²

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of Chelmsford City Council, not including documents relating to excluded minerals and waste development, is the Chelmsford Local Plan adopted on 27 May 2020. A review of the Local Plan was commenced in 2022 but this is at a relatively early stage of preparation.

¹ The existing body of environmental regulation is retained in UK law.

² This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.³

Submitted Documents

2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:

- the draft Danbury Neighbourhood Plan 2023 - 2036, March 2024;
- a map which identifies the area to which the proposed Neighbourhood Development Plan relates;
- the Consultation Statement, March 2024;
- the Basic Conditions Statement, March 2024;
- all the representations that have been made in accordance with the Regulation 16 consultation;
- the Strategic Environmental Assessment Screening Report, 6 February 2019, prepared by Chelmsford City Council;
- the Strategic Environmental Assessment (SEA) for the Danbury Neighbourhood Plan, March 2024;
- the Equalities Impact Assessment, March 2024; and
- the requests for additional clarification sought in my letters dated 16 July 2024 and 30 July 2024; the combined responses from Chelmsford City Council and Danbury Parish Council dated 25 July 2024 and 19 August 2024 (the latter including a further response, at Appendix 4, dated 14 August 2024, from Savills on behalf of Medical Services Danbury in response to the Councils' letter of 25 July 2024); and an email, dated 25 September 2024, from Chelmsford City Council updating me of changed circumstances in respect of Policy DNP7, Wildlife Corridors.⁴

³ A revised version of the NPPF was published in December 2023. All references in this report read across to the latest December 2023 version. The government is presently consulting on further changes to the NPPF (albeit these are not likely to be published in final form until later in 2024): [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system)

⁴ View the documents at: <https://www.danburyneighbourhoodplan.com/>

Site Visit

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 13 August 2024 to familiarise myself with it and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.5 This examination has been dealt with by written representations. I am aware that two or three parties either stated/implied a hearing session was necessary or expressed a wish to participate in such a session, if one were held. As noted in the final bullet point of paragraph 2.3 above, in order to seek further clarification during the course of the examination, I sought additional written responses from Chelmsford City Council, Danbury Parish Council and Savills on behalf of Medical Services Danbury. Through this process, I highlighted my initial concerns relating to the approximate number of homes to be provided and the way in which sites had been selected, or not, for allocation. The additional written responses and views provided, combined with the consultation responses, were sufficient in my view to clearly articulate the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. Accordingly, I considered hearing sessions to be unnecessary.

Modifications

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Danbury Neighbourhood Plan has been prepared and submitted for examination by Danbury Parish Council, which is a qualifying body for an area that was designated by Chelmsford City Council on 9 June 2016.
- 3.2 It is the only Neighbourhood Plan for Danbury Neighbourhood Area and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2023 to 2036.

Neighbourhood Plan Preparation and Consultation

- 3.4 Details of plan preparation and consultation are set out in Danbury Parish Council’s Consultation Statement, March 2024. Designation of the neighbourhood by Chelmsford City Council was made on 9 June 2016. Plan preparation was subsequently progressed under the auspices of a neighbourhood plan steering group.
- 3.5 The content of the Neighbourhood Plan is based on the information gathered from engagement with residents, businesses, children and young people. Activities have included public workshops, questionnaire surveys, a call-for sites exercise and exhibitions. The Steering Group developed a Vision and Objectives as well as a set of draft policies, tested and refined through further feedback and consultation.
- 3.6 Formal consultation under Regulation 14 took place between 1 February 2023 and 15 March 2023. The Consultation Statement records details of the exercise, the resultant comments and details of the responses of the Steering Group. In all, over 550 comments were received including those of 11 organisations acting for landowners.
- 3.7 At the Regulation 16 stage (8 May 2024 to 19 June 2024), nearly 120 representations were received from a variety of public bodies, consultants, house builders, developers, residents and others.⁵
- 3.8 I am satisfied that, at both the Regulation 14 and the Regulation 16 stages, the consultation process met the legal requirements and there has been procedural compliance. Regard has been paid to the advice on plan preparation and engagement in the PPG.

Development and Use of Land

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with Section 38A of the 2004 Act.

Excluded Development

- 3.10 The Plan does not include provisions and policies for “excluded development”.⁶

Human Rights

- 3.11 Danbury Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). From my independent assessment, I see no reason to disagree.

⁵ I comment further on the matter of consultation in relation to the Strategic Environmental Assessment (SEA) at paragraph 4.5 below.

⁶ The meaning of ‘excluded development’ is set out in s.61K of the 1990 Act.

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4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Danbury Neighbourhood Plan was screened for Strategic Environmental Assessment (SEA) in February 2019 by Chelmsford City Council. It was concluded that a full Strategic Environmental Assessment would be necessary to guide the allocation of site/s making up Strategic Growth Site 13 – Danbury.⁷ Having read the Strategic Environmental Assessment Screening Report, I support this conclusion.
- 4.2 The full assessment is set out in the environmental report “Strategic Environmental Assessment (SEA) for the Danbury Neighbourhood Plan”, March 2024. Negative effects are predicted in relation to several SEA themes. However, once mitigation is considered, these effects are not likely to be significant. From my own review of the report, I agree with this assessment.
- 4.3 The SEA has been challenged, notably on the basis that there has not been compliance with the consultation requirements; also, that there has been a failure to assess reasonable alternatives. With regard to consultation, all relevant parties have been given an appropriate opportunity to comment. The various consultation bodies were notified directly.⁸ In addition, the SEA was one of the submission documents which were available for comment at the Regulation 16 stage. I am satisfied that there has been no prejudice.
- 4.4 As to the failure to assess reasonable alternatives, it has been argued that sites other than those ‘shortlisted’ for assessment should have been considered. I do not agree with these arguments. Twenty-one sites were subject to a Site Options Assessment Report (May 2019). Nine were discounted in an initial sift. Twelve sites were the subject of further assessment. Two further ‘late submission’ sites were also discounted, principally on the basis that they had not been subject to the same assessment process as the submitted sites.
- 4.5 Of the various candidate sites, six best-performing sites and a small brownfield site were considered to represent the ‘reasonable alternatives’. Following fuller assessment through the SEA, five sites were selected for allocation. I appreciate it is conceivable that a different approach to the selection criteria and weighting of results may have given rise to a different mix of sites. However, I find that the conclusions reached by the Parish Council were soundly based. There is no overriding reason why other sites should have been added to the ‘reasonable alternatives’.
- 4.6 The Danbury Neighbourhood Plan was effectively screened for Habitats Regulations Assessment (HRA) through the SEA Screening Report,

⁷ Strategic Growth Site Policy 13 – Danbury in the adopted Local Plan.

⁸ Confirmed in the Councils’ answers dated 19 August 2024 to my questions.

February 2019. It was recognised that the allocation of around 100 homes in Danbury may contribute to recreational disturbance impacts on the Essex Estuaries Special Area of Conservation (SAC). However, the strategic allocation was tested through the Pre-Submission Local Plan Habitats Regulations Assessment. This concluded that, although within the 'zone of influence', there is a low risk of 'in combination' effects on regional visitor pressure issues.

- 4.7 Since that date, the Essex Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) has been completed. Contributions from developments will be secured through identified mitigation measures (in the case of the Neighbourhood Plan, through Policy DNP6: Environment and Biodiversity). This is a 'strategic solution' of the sort envisaged by Natural England.⁹ I am satisfied that HRA was not triggered. In addition, Chelmsford City Council has confirmed that a separate HRA would not be required.¹⁰

Main Issues

- 4.8 Having regard for the Danbury Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are six main issues relating to the Basic Conditions for this examination. These concern:

- Housing and Development
- Environment
- Transport and Movement
- Recreation and Leisure and Amenities
- Business and Economy
- Heritage

- 4.9 Before I deal with the main issues, I have a few observations to make with regard to the representations. First, the Danbury Neighbourhood Plan should be seen in the context of the wider planning system. This includes the Chelmsford Local Plan as well as the NPPF and PPG. It is not necessary to repeat in the Neighbourhood Plan matters that are quite adequately dealt with elsewhere.¹¹ Having said that, there may be scope to give emphasis to matters particularly relevant in the context of Danbury.

- 4.10 Secondly, the Neighbourhood Plan does not have to deal with each and every topic raised through the consultation. In this regard, the content of

⁹ Email dated 26 October 2018 in Appendix 2 of the Screening Report.

¹⁰ Email dated 19 April 2022 in Appendix C of the Basic Conditions Statement.

¹¹ See NPPF Paragraph 16 f).

the Neighbourhood Plan and the scope of the policies is largely at the discretion of the qualifying body, albeit informed by the consultation process and the requirements set by the Basic Conditions.

- 4.11 Thirdly, my central task is to judge whether the Neighbourhood Plan satisfies the Basic Conditions. Many of the representations do not demonstrate or indicate a failure to meet those conditions or other legal requirements. Similarly, many of the suggested additions and improvements are not necessary when judged against the Basic Conditions.
- 4.12 The following section of my report sets out modifications that are necessary in order to meet the Basic Conditions. Some of the proposed modifications are factual corrections.¹² Others are necessary in order to have closer regard to national policies and advice. In particular, plans should be succinct and contain policies that are clearly written and unambiguous.¹³ A decision maker should be able to apply them consistently and with confidence when determining planning applications. In addition, the policies should be supported by appropriate evidence.¹⁴

Issue 1 – Housing and Development

- 4.13 Policy DNP1: Housing Site Allocations allocates five specific sites with a total development potential of approximately 93 homes. In this regard, several representors object to the policy on the basis that the identified quantum of housing, including for specialist housing needs, is inadequate. Amongst other things, they reference government guidance whereby neighbourhood planning bodies are encouraged to plan to meet their housing requirement, and where possible to exceed it.¹⁵
- 4.14 Other reference sources include the Danbury Housing Needs Assessment (2020) which points to a need for 146 affordable homes over the period 2021 to 2036; the City Council's Strategic Housing Needs Assessment October 2023 (a city-wide need of 955 dwellings per annum (dpa) against the 805 dpa on which the Local Plan and Neighbourhood Plan are predicated); and a representor's Local Housing Needs Review (June 2024) which identifies a net need for 363 additional dwellings over the plan period.
- 4.15 On the basis of the above findings, there are good arguments in favour of greater housing provision in Danbury. However, I have weighed these arguments against certain other local considerations:
- The 'housing requirement' for Danbury (a key service settlement) is set at "around 100 new homes" by Chelmsford Local Plan Strategic

¹² Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

¹³ NPPF, Paragraphs 15 and 16 d).

¹⁴ PPG Reference ID: 41-041-20140306.

¹⁵ For example, PPG Reference ID: 41-103-20190509.

Growth Site Policy 13 – Danbury. The Neighbourhood Plan is in general accordance with this strategic policy. The figure was adopted having regard to identified constraints and opportunities.¹⁶

- The Inspector examining the draft Chelmsford Local Plan stated, “The identification of ‘around’ housing figures for each relevant site allocation allows for an appropriate degree of flexibility in provision. Furthermore, it does not prevent higher density development from being brought forward, if this conforms with other policies in the Plan as a whole.”¹⁷
- Under Policy DNP1, sites are allocated for approximately 93 homes. This figure can be treated with an “appropriate degree of flexibility in provision” (above). In addition, housing development on windfall sites is to be expected although provision is uncertain.
- Paragraph 7.354 of the Chelmsford Local Plan notes that, “...future development in Danbury is restricted by significant landscape, ecology and highway constraints...”; and, at Paragraph 7.357, “There are a number of heritage assets in and around Danbury which may need to be considered...”. The effect and significance of these constraints can be seen through the site assessment process and in the SEA.

4.16 Bearing in mind these local considerations, I conclude that the approach taken by the Parish Council is entirely reasonable. The provision (with some flexibility) is in general accordance with Strategic Growth Site Policy 13 in circumstances where significant constraints affect local development opportunities. Although there is a case for greater provision, I am of the opinion that the spatial distribution of the city’s housing requirement and the quantum to be provided in Danbury (as informed by assessments of local housing needs and opportunities) can best be determined as part of the Local Plan Review.

4.17 I also consider that the processes used to select and evaluate candidate sites, and the results, are soundly based. Following a call-for-sites exercise, 21 sites were offered for assessment. These were evaluated as set out in the Plan and evidence base documents. Unacceptable sites were dismissed. Whilst arguments have been made about the selection criteria and the weighting of the results, I do not consider that unsound judgements have been made. Nor do I consider it necessary to evaluate sites that were put forward late in the process. To my mind, the Parish Council has chosen five acceptable sites and it is not necessary to consider other options.

4.18 In terms of the above discussion, I have concluded that Policy DNP1: Housing Site Allocations meets the Basic Conditions, subject to two

¹⁶ Chelmsford Local Plan, Paragraph 7.360.

¹⁷ Inspector’s report on the Examination into the Chelmsford Local Plan, Paragraph 87.

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matters. First, the policy references Figure 5 as the plan where the sites are identified; but, for Site B, the extent of the site is different from that shown on Figure 7, the site plan for this site. I have established the correct boundary is that shown on Drawing No CJ_MP_004_Neighbourhood Plan.¹⁸ Both figures need to be corrected.

- 4.19 The second matter is the absence of mention of the Essex Design Guide. I am aware that this is an important reference in the consideration of planning applications in this area. The Guide (and the correct boundary for Site B) should be identified as in proposed modification **PM1**.
- 4.20 Turning to the site specific policies for the allocated housing sites, the first that requires modification is that for Site B: Land at Tyndales Farm West. Modifications are also necessary in respect of Site C: Ex Play Area South of Jubilee Rise; Site D: Danecroft, Woodhill Road; and Site E: Land at Mayes Lane.
- 4.21 The policy for Site B (Tyndales Farm West) covers a number of criteria including trees and planting. Several matters are unclear but have been clarified in the answers to my questions:
- Criterion a. refers to the protection of trees and hedges. This means both root protection and the avoidance of removal. Amended wording is required.
 - Criterion b. refers to “multifunctional green infrastructure”. For clarity, readers should be directed to the Glossary where a definition and a link (needs updating) to details of the green infrastructure framework are to be found.
 - Criterion f. refers to “mitigation planting”. This is a reference to the landscape buffers (as in criteria b, c, d and e). For the avoidance of doubt, the criterion should refer to those buffers.
 - Criterion g. states that dwelling boundaries within the site should include natural hedging. Whilst softening rigid garden boundaries between dwellings (eg a low fence with hedging) is a laudable objective, this is too prescriptive a requirement with little evidence to show that it is necessary. Amended phrasing of the criterion is required.
- 4.22 Turning to Criterion 7 of the policy, this states that “Development should provide pedestrian and cycle connections.” Clarification is needed to indicate that this means connecting to routes adjacent to the site.
- 4.23 Finally, Criterion 9 refers to making financial contributions *as required by various bodies*. Whilst the various bodies would be consulted, it is the local planning authority that is in charge of the process. Amended wording is required.

¹⁸ See the response dated 19 August 2024 from Danford Parish Council to my questions.
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- 4.24 Necessary amendments to Site Specific Policy B: Land at Tyndales Farm West are set out in proposed modification **PM2**.
- 4.25 Turning to Site Specific Policy C: Ex Play Area, South of Jubilee Rise, there are again uncertainties with regard to the landscaping requirements. In Criterion 4, where there is a call for existing planting to be reinstated, the Parish Council is looking for *replacement planting*; and in Criterion 6, the aim is to protect viable existing trees and hedges within the development site *from removal or harm*.¹⁹ Appropriate clarification would be added through proposed modification **PM3**.
- 4.26 The next policy is Site Specific Policy D: Danecroft, Woodhill Road. In common with the policy for Site B, there is a requirement (Criterion 4) for dwelling boundaries within the site to be comprised of native hedging. This provision needs to be amended as previously advised. Similarly, Criterion 5 on the protection of trees and hedges needs added reference to removal or harm. In addition, Criterion 8 should be removed since this repeats content from Criterion 4.
- 4.27 Criterion 6 of the policy refers to adjacent heritage assets. For clarity, these should be specifically identified (The Cricketers and The Poplars). Also in this criterion, there is reference to the scale of buildings. This is more appropriately dealt within Policy DNP4: Built Form and the matters should be deleted from Site Specific Policy D.
- 4.28 On a final point, Criterion 7 refers to respecting neighbouring rear boundaries. This is a vague term, the purpose of which is unclear. Clarification should be added to the reasoned justification to the policy. This and other necessary amendment are addressed in proposed modification **PM4**.
- 4.29 With regard to Site Specific Policy E: Land at Mayes Lane, clarification is needed of the required protection of trees within the development (as above). Also, an explanation should be given on the provision of open barriers (Criterion 11). Both of these matters are dealt with through proposed modification **PM5**.
- 4.30 Policy DNP2 deals with housing type, mix and tenure. However, there is no reference to affordable housing. For clarity, reference should be added to Local Plan Policy DM2 as in proposed modification **PM6**.
- 4.31 Policy DNP3 is the next policy under the housing heading and covers the subject of sustainable housing design. This includes reference (Criteria 2 and 3) to use of the Net Zero Carbon Toolkit. The toolkit is referenced at the end of the Plan. However, for the avoidance of doubt, a link should be provided.

¹⁹ See the response dated 19 August 2024 from Danford Parish Council to my questions.
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- 4.32 Criterion 3 also contains reference to creating “a consistent building frontage”. This is an uncertain term that should be deleted. Also under Criterion 3, the use of low carbon materials, assessed through a Life Cycle Assessment, should be prioritised. This requirement is not fully evidenced and is more of an aspiration. It would be more appropriate to prioritise such use *where possible*.
- 4.33 On a final point, there is an error in Criterion 4. A reference to section 5.61 should read “section 5.59”. This and other necessary amendments would be dealt with under proposed modification **PM7**.
- 4.34 The final housing policy where amendment is needed is Policy DNP4: Built Form. In this regard, Paragraph 5.62 of the reasoned justification calls for maximum roof heights to be lower than the crown of surrounding trees. This requirement is not within the policy itself and indeed could be in conflict with Criterion 5 of the policy. The reference in the reasoned justification should be deleted as in proposed modification **PM8**.

Issue 2 – Environment

- 4.35 Policy DNP7 concerns conservation and enhancement within four wildlife corridors. They are identified, rather diagrammatically, on Figure 11 whilst the text refers to a related publication from the Essex Wildlife Trust (EWT). To my mind, and from the information provided, a prospective applicant would not be able to identify in sufficient detail the boundaries of any of the corridors. Further, it is not possible (readily at least) to find the EWT publication to which reference is made.
- 4.36 I have been advised that circumstances have changed.²⁰ The emerging Essex Local Nature Recovery Strategy is now an important reference. In the circumstances, the text supporting the policy needs to be changed. Proposed modification **PM9** sets out amended text and details of where the boundaries of the wildlife sites can be found. The emphasis on wildlife connectivity, rather than wildlife corridors, is also recognised.
- 4.37 At the opening of Policy DPN8: Open Spaces, there is reference to “Development that triggers provision of new open space on-site”. Whilst Paragraph 6.20 of the reasoned justification indicates that this relates to developments of 10 or more dwellings, this is a matter of policy that would be better set out within Policy DNP8 itself.
- 4.38 Later in the policy (Criterion 2.c)), there is reference to the requirements of target species. For clarity, there should be an explanation in the reasoned justification of how the target species and their requirements are to be identified.
- 4.39 Criterion 4 resists the loss of open space but includes special considerations that would apply within the Conservation Area. This adds

²⁰ Email dated 25 September 2024 from Chelmsford City Council
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confusion. It is sufficient to resist the loss of open space and to delete other matters. This and other necessary amendments are set out in proposed modification **PM10**.

- 4.40 Amongst other things, Policy DNP9: Recreational Pressure on Sites of Special Scientific Interest requires the formation of an oversight group to assess recreational pressures and mitigation. This begs the question of whether third parties can contribute time and resources to such groups. I would expect that, without commitment, the involvement and funding of parties' contributions should be discussed at the pre-application stage. Such a requirement needs to be written into the criterion (proposed modification **PM11**).
- 4.41 I now turn to Policy DNP12: Danbury Key Views Identified. Rather confusingly, there are 10 key views to which the policy applies (Figure 14). However, only seven are listed in the policy. Amendment is needed such that all the protected views are identified in the policy.
- 4.42 Of the views listed, View 6 is from Footpath 38 towards Bradwell Power Station. The identified viewpoint falls within the boundary of the site allocated under Site Specific Policy B: Land at Tyndales Farm West. Protection of the view would be incompatible with the provisions of the allocation. It may be that, in the future, there will be views worthy of protection from the eastern boundary of the development or from the footpath as diverted. However, for the time being, and along with the listing of all the key views, the policy should be amended as in proposed modification **PM12**.

Issue 3 – Transport and Movement

- 4.43 The first criterion of Policy DNP13 (Connection to Sustainable Transport and Village Amenities) provides for new developments to be integrated with "the multifunctional green infrastructure network" and to provide access to "community transport". In both respects, applicants may wonder where relevant information can be found. Reference to source information needs to be provided as in proposed modification **PM13**.

Issue 4 – Recreation and Leisure and Amenities

- 4.44 In regard to recreation and leisure and amenities, the Plan contains two overlapping policies. Policy DNP14 covers community/recreational facilities whilst Policy DNP15 covers 'amenities'; but they are all 'community facilities' under Local Plan Policy DM21. To avoid confusion, the content should be rationalised and combined in a new policy under the title of "Provision of Recreational and Leisure Facilities".
- 4.45 In response to my questions, the Parish Council has provided suggested text for an amended policy. This text forms the basis of proposed modification **PM14**.

Issue 5 – Business and Economy

- 4.46 Under Criterion 3 of Policy DNP16, new employment development should *complement* existing businesses. In this way, the Parish Council is aiming to avoid businesses that may be noisy/intrusive setting up in areas which are predominantly retail, for example, Eves Corner.²¹ However, this aim is not clear from a reading of the policy as drafted. An explanation should be included within the reasoned justification as in proposed modification **PM15**.

Issue 6 – Heritage

- 4.47 In relation to Policy DNP17: Protected Lanes, reference is made in Plan Paragraph 10.10 to Figures 16 and 19. These plans purport to show the lanes to which the policy will apply. However, I find that the plans are difficult to interpret. For example, in Figure 16, it is not possible to accurately determine in all cases those parts of the lanes that are subject to the policy. In Figure 19, some of the lanes appear not to be marked (or are shown in a colour that is indistinct).
- 4.48 A larger scale plan is required such that the policy can be applied consistently and with certainty. This is the subject of proposed modification **PM16**.

Other Policies

- 4.49 There remain a number of policies that have not been the subject of commentary in the above report. These are Site Specific Policy A: Land at Sandpit Field, East of Little Fields; Policy DNP5: Street Scene; Policy DNP6: Environment and Biodiversity; Policy DNP10: Light Pollution and Night Skies; and Policy DNP11: Trees and Hedges.
- 4.50 To a greater or lesser extent, these topics are covered in NPPF Sections 4 (Delivering a sufficient supply of homes), 8 (Promoting healthy and safe communities), 11 (Making effective use of land), 12 (Achieving well-designed and beautiful places) and 15 (Conserving and enhancing the natural environment). I find that there has been regard for national policy and that the Basic Conditions have been met.

Other Matters

- 4.51 All policy areas have been considered in the foregoing discussion. With the modifications that I have recommended, the Plan would meet the Basic Conditions. Other minor, non-material changes (that do not affect the Basic Conditions), including those suggested by Essex County Council, as well as consequential amendments, corrections and up-dates, could be made prior to the referendum at the Councils' discretion.²²

²¹ See Parish Council's answers dated 19 August 2024 to my questions.

²² PPG Reference ID: 41-106-20190509.

5. Conclusions

Summary

- 5.1 The Danbury Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Danbury Neighbourhood Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for future planning and change in Danbury over the coming years.

Andrew S Freeman

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no/ other reference	Modification
PM1	Pages 29, 30 and 36	In regard to Policy DNP1 and Site B, correct Figures 5 and 7 so that they show the boundary marked on Drawing No CJ_MP_004_Neighbourhood Plan. After "Danbury Design Guide", add "and the Essex Design Guide".
PM2	Pages 34 and 35	In Criterion 3.a. of Site Specific Policy B, insert "from removal or harm" after "Protect existing trees and hedges". In Criterion 3.b., insert "(see Glossary)" after "multifunctional green infrastructure". In Criterion 3.f., substitute "The required landscape buffers" for "Mitigation planting". In Criterion 3.g., substitute "For dwelling boundaries within the site, the use of" for "Dwelling boundaries within the site should include". At the end of the criterion, add "...,will be supported". At the end of Criterion 7, add "to existing routes adjacent to the site". In Criterion 9.a., b., c. and d., after "as required by", add "the City Council in conjunction with".
PM3	Page 37	In Criterion 4 of Site Specific Policy C, substitute "replaced" for "reinstated". In Criterion 6, after "the development site" add "from removal or harm".
PM4	Page 39	Delete the second sentence of Site Specific Policy D, Criterion 4. Replace with, "For dwelling boundaries within the site, the use of native hedging to facilitate wildlife movements in this formerly biodiverse area will be supported."

		<p>In Criterion 5, after “development site”, add “from removal or harm”.</p> <p>In Criterion 6, replace “adjacent heritage assets” with “The Cricketers and The Poplars”. Delete the second sentence.</p> <p>In the reasoned justification, and in line with the Parish Council’s answers dated 19 August 2024 to my questions, add an explanation of the phrase on respecting neighbouring rear boundaries (Criterion 7).</p> <p>Delete Criterion 8.</p>
PM5	Page 41	<p>In Criterion 6 of Site Specific Policy E, add “from removal or harm” after “protected”.</p> <p>In the reasoned justification, and in line with the Parish Council’s answers dated 19 August 2024 to my questions, add an explanation of the provision of open barriers (Criterion 11).</p>
PM6	Page 43	<p>To Policy DNP2, add a new criterion: “Affordable housing shall be provided in accordance with Local Plan Policy DM2.”</p>
PM7	Page 45	<p>In Policy DNP3, Criterion 3, add a link to the Net Zero Carbon Toolkit.</p> <p>In Criterion 3.a), delete “, whilst also creating a consistent building frontage to the street”.</p> <p>Replace Criterion 3.d) with the following: “The use of low carbon and recycled materials should be prioritised where possible.”</p> <p>In Criterion 4, replace “5.61” with “5.59”.</p>
PM8	Page 49	<p>In connection with Policy DNP4, delete the following text from Paragraph 5.62 of the reasoned justification: “and be lower than the crown of surrounding trees”.</p>
PM9	Page 54	<p>In relation to Policy DNP 7, delete Figure 11 and delete the reference to Figure 11 in the policy. Change the title of the policy to “Wildlife Connectivity”.</p>

		For Paragraphs 6.13 to 6.18, substitute the text (commencing “Through the Environment Act 2021”) and the added references set out in the attachment to Chelmsford City Council’s email dated 25 September 2024.
PM10	Pages 56 and 57	<p>In the opening sentence of Policy DNP8, add “(10 dwellings or more)” after “on-site”.</p> <p>In the reasoned justification, and in line with the Parish Council’s answers dated 19 August 2024 to my questions, add an explanation of the requirements of target species (Criterion 2.c)).</p> <p>Replace Criterion 4 with the following: “Development resulting in the loss of accessible open space (Figure 12) will not be supported.”</p>
PM11	Page 60	At the end of Policy DNP 9 Criterion 4, add: “The scope of the parties’ involvement and any reimbursement of costs shall be agreed between the parties and the applicant at an early stage of the pre-application process.”
PM12	Pages 65, 66 and 67	<p>In Policy DNP12 (and elsewhere, including Figure 14) delete reference to View 6 “From Footpath 38 towards Bradwell Power Station”.</p> <p>In Part 2 of the policy, add reference to Dawson Field towards the south, Riffhams Lane towards Riffhams House and From Southview Road towards Hanningfield Reservoir.</p> <p>In Paragraph 6.40, amend the end of the first sentence so that it reads “the nine key views listed above in Policy DNP12”. Delete the following sentence.</p> <p>After the heading on Page 67 (Key Views Designated for Protection), delete “(Numbers 1 to 7)”.</p>

PM13	Page 73	In Criterion 1 of Policy DNP13, insert "(see Glossary)" after "multifunctional green infrastructure network". To the reasoned justification, add the details of where information about local community transport can be found.
PM14	Pages 79 to 84	With regard to Policies DNP14 and DNP15, substitute amended text as set out in the Parish Council's answers dated 19 August 2024 to my questions (Appendix 3).
PM15	Page 85	In the reasoned justification to Policy DNP16, and in line with the Parish Council's answers dated 19 August 2024 to my questions, add an explanation of the aim that new employment development should 'complement' existing businesses (Criterion 3).
PM16	Page 92	In relation to Policy DNP17 and Figures 16 and 19, show the Protected Lanes on a plan or plans of a scale sufficient to show clearly the lanes and lengths to which the policy relates. Amend the supporting text accordingly.